

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ERIC QUINN FRANKLIN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C20-5528 BHS

ORDER

THIS MATTER is before the Court on pro se petitioner Eric Quinn Franklin's Motion to "Reopen" his 28 U.S.C. § 2255 motion, Dkt. 35, Franklin's Motion to Amend his Rule 60 motion, Dkt. 36, and the Government's motion to dismiss for lack of jurisdiction, Dkt. 37.

In August 2021, this Court denied Franklin's motion(s) to amend his § 2255 motion, Dkts. 20 and 23. Dkt. 26. Franklin appealed. Dkt. 27. In May 2022, the Ninth Circuit Court of Appeals declined to issue a certificate of appealability and denied Franklin's pending motions. Dkt. 29. In July 2022, the Ninth Circuit denied Franklin's motion for reconsideration and closed the case. Dkts. 29 and 30.

1 In May 2023, Franklin filed in this Court a substantially similar “Rule 60” motion
2 to re-open his underlying § 2255 motion to assert his “ground three ineffective assistance
3 of counsel claim.” Dkt. 31. The Government moved to dismiss for lack of jurisdiction,
4 arguing that Franklin had in substance filed a second or successive § 2255 motion. Dkt.
5 33. In June 2023, this Court granted the Government’s motion, denied Franklin’s motion,
6 denied a certificate of appealability, and ordered that “the case remains closed.” Dkt. 34.

7 In July 2023, Franklin filed in this Court a substantially similar motion to re-open
8 his § 2255 motion, Dkt. 35, and a motion to “Amend Rule 60 and motion to reopen case,”
9 Dkt. 36. Both assert that that he is “entitled to relief for my ground three ineffective
10 assistance of counsel claim under federal civil rule 60(b).” Dkt. 35 at 1; Dkt. 36 at 1.

11 The Government again moves to dismiss for lack of jurisdiction, Dkt. 37, arguing
12 that the Court does not have jurisdiction to hear a second or successive § 2255 motion.

13 The Court and the parties have already been down this road, twice. Franklin’s
14 motions are **DENIED**, for the same reasons his prior similar motions were denied. The
15 Government’s motion is **GRANTED**, for the same reasons its prior motion was granted.
16 The Court will not entertain further motions of this nature. Franklin’s second or
17 successive § 2255 motion is **DISMISSED** and the Court **WILL NOT** issue a Certificate
18 of Appealability under 28 U.S.C. § 2253(c). The case is and will remain **CLOSED**.

19 **IT IS SO ORDERED.**

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1 Dated this 13th day of September, 2023.

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4 BENJAMIN H. SETTLE
5 United States District Judge
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